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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT**

STATE OF KANSAS, <i>ex rel.</i>,)	
DEREK SCHMIDT, Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 2021-CV-000189
)	
)	
KEVIN E. WILKINSON, an individual)	
AND TOPEKA ROOFING)	
AND GUTTERS LLC,)	
)	
Defendants.)	
)	

(Pursuant to K.S.A. Chapter 60)

FIRST AMENDED PETITION

COMES NOW the Plaintiff, State of Kansas, *ex rel.* Derek Schmidt, Kansas Attorney General, by and through counsel, Kimberley Davenport Megrail, Assistant Attorney General, and for its cause of action against Defendants, alleges and states as follows:

PARTIES

1. Derek Schmidt is the duly elected, qualified, and acting Attorney General for the State of Kansas.

2. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.* ("KCPA").

3. Defendant Kevin E. Wilkinson ("Defendant Wilkinson") is an individual with a last known residential address of [REDACTED], Topeka, Kansas 66606. He may be served with process through his attorney James Heathman at Heathman Law Office, P.A, 3706 SW Topeka Blvd., Ste. 402, Topeka, KS 66609. Defendant Wilkinson has operated a number of businesses, besides the one referenced in paragraph 4 of this Amended Petition, in past years, none of which have existed in any corporate form or been registered with the Kansas Secretary of State. Specifically in regards to the consumers mentioned in this Amended Petition, Defendant Wilkinson has done business as C & C Roofing, Capitol City Roofing and Capitol City Construction. All of these businesses appear to have been sole proprietorships operated and managed by Defendant Wilkinson. None of these businesses appear to be active at this time.

4. Defendant Topeka Roofing and Gutters LLC ("Defendant Topeka Roofing") is a Kansas Limited Liability Company registered to do business with the Kansas Secretary of State. Defendant Topeka Roofing was organized by Defendant Wilkinson. Defendant Topeka Roofing filed with the Kansas Secretary of State on May 16, 2019. The registered agent for Defendant Topeka Roofing is Kevin E. Wilkinson. Defendant Topeka Roofing can be served with process through its attorney James Heathman at Heathman Law Office, P.A, 3706 SW Topeka Blvd., Ste. 402, Topeka, KS 66609.

5. All references to Defendants herein include acts performed individually, in concert, or by or through employees, agents, representatives, affiliates, assignees, or successors.

6. Any violation for which Defendant Topeka Roofing is held liable, Defendant Wilkinson should also be held liable individually as well for the wrongdoing.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this case pursuant to the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

8. Defendants are subject to the jurisdiction of this Court pursuant to the Kansas Consumer Protection Act, specifically K.S.A. 50-638(a).

9. Venue is proper in the Third Judicial District (Shawnee County) pursuant to K.S.A. 50-638(b).

THE KANSAS ROOFING REGISTRATION ACT

10. The Kansas Roofing Registration Act, K.S.A. 50-6,121 *et seq.*, requires all roofing contractors offering roofing services in the state of Kansas to obtain a valid registration certificate through the Office of the Kansas Attorney General (“OAG”).

11. Any violation of the Kansas Roofing Registration Act shall be deemed to be a deceptive or unconscionable act or practice under the provisions of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.* pursuant to the Kansas Roofing Registration Act, K.S.A. 2017 Supp. 50-6,138(a).

ALLEGATIONS COMMON TO ALL COUNTS

12. All of the foregoing paragraphs are hereby incorporated by reference.

13. Defendant Wilkinson manages, operates and controls Defendant Topeka Roofing. Prior to forming Defendant Topeka Roofing, Defendant Wilkinson owned, operated and

controlled sole proprietorships C & C Roofing, Capitol City Roofing and Capitol City Construction.

14. At all times relevant hereto, Defendant Wilkinson and Defendant Topeka Roofing are “suppliers” as defined by K.S.A. 50-624(l).

15. At all times relevant hereto, Defendant Wilkinson and Defendant Topeka Roofing made or caused to be made “door-to-door sales” as defined by K.S.A. 50-640(c)(1).

16. At all times relevant hereto, Defendant Wilkinson and Defendant Topeka Roofing made or caused to made door-to-door sales with “consumers” as defined by K.S.A. 50-624(b).

17. At all times relevant hereto, and in the ordinary course of business, Defendant Wilkinson and Defendant Topeka Roofing made or caused to be made “consumer transactions,” as that term is defined by K.S.A. 50-624(c).

18. At all times relevant hereto, and in the ordinary course of business, Defendant Wilkinson and Defendant Topeka Roofing engaged in or enforced consumer transactions as defined by K.S.A. 50-624(l).

19. At all times relevant hereto, and in the ordinary course of business, Defendant Wilkinson and Defendant Topeka Roofing acted as “roofing contractors,” as that term is defined by K.S.A. 50-6,122(a)(1).

20. Defendant Wilkinson and Defendant Topeka Roofing, as part of their regular business practices, contracted with at least eleven (11) Kansas consumers to perform roofing related services and/or gutter services.

21. Defendant Wilkinson and Defendant Topeka Roofing, as part of their regular business practices, accepted payments from consumers for jobs for which they contracted.

22. Since at least 2013, Defendant Wilkinson and Defendant Topeka Roofing solicited and made or caused to be made door-to-door sales of roofing related services and gutter services to Kansas consumers.

23. Since at least 2013, Defendant Wilkinson and Defendant Topeka Roofing have engaged in the business of and acted in the capacity of a roofing contractor within the state of Kansas.

24. Defendant Wilkinson, on behalf of Capital City Construction, applied for a Kansas roofing registration certificate with the Office of the Kansas Attorney General in June of 2014. More information was requested as the application was not accompanied by all the required documentation. No registration certificate was issued for this application by the Office of the Kansas Attorney General.

25. Defendant Wilkinson, on behalf of Capitol City Construction, applied for a Kansas roofing registration certificate with the Office of the Kansas Attorney General in August of 2015. More information was requested twice as the application was not accompanied by all the required documentation. The application was subsequently deemed abandoned on or about December 5, 2015 when the documentation was not received by the OAG. No registration certificate was issued for this application by the Office of the Kansas Attorney General.

26. Defendant Wilkinson, on behalf of Topeka Roofing and Gutters LLC, applied for a Kansas roofing registration certificate with the Office of the Kansas Attorney General in May of 2019 and was issued the certificate on July 26, 2019.

27. With the exception of paragraphs 24, 25 and 26, Defendant Wilkinson individually or doing business as Capitol City Roofing or C & C Roofing has not applied for or held a roofing registration certificate issued by the Office of the Kansas Attorney General.

28. Defendant Wilkinson and Defendant Topeka Roofing, as part of their regular business practices, personally solicited the sales of property and services which purchase prices exceeded twenty-five dollars (\$25.00) in response to consumers' invitation and the agreement or contract was made at a place other than the place of business of the supplier.

29. Defendant Wilkinson and Defendant Topeka Roofing, as part of their regular business practices, did not advise consumers in which they entered into transactions with their rights of cancellation of said contract or agreement in writing or orally.

Douglas County

Consumer M.B.

30. All foregoing paragraphs are hereby incorporated by reference.

31. On or about May 22, 2019, consumer M.B., Lawrence, Kansas, Douglas County, entered into a consumer transaction with Defendant Topeka Roofing for gutter cleaning services.

32. M.B. entered into a consumer transaction with Defendant to clean their home's gutters. Defendant, before performing the job, gave consumer M.B. an estimate of \$165.00 for the work. When the Defendant completed the work, they gave the consumer a bill of \$1,452.00 stating they had repaired some roof damage as well. Consumer paid the bill in full.

33. M.B. consulted a second roofing contractor to review the possible roof damage and the repair work done that same day. The second roofing contractor stated that the repairs

were unnecessary and done poorly. Consumer M.B.'s roof had been replaced within the past year.

34. M.B. tried to stop payment on the check for \$1,452.00 and gave the Defendant a check for \$350.00 for the services instead which was to replace the first payment. Both checks were cashed by Defendant. M.B. is now being pursued by a collection agency to collect on the check for \$1,452.00.

35. The consumer transaction was a "door-to-door" transaction in that the Defendant personally solicited the sale, in response to the consumer's invitation and consumer entered into an agreement for the sale of property and services in excess of \$25 and the transaction was subsequently entered into at a location other than the Defendant's place of business.

36. The estimate/agreement between the parties failed to contain any of the required language regarding the consumer's rights to cancel the contract or agreement within three days of the transaction or any form labeled "Notice of Cancellation" as required. Consumer was also not verbally advised of their rights of cancellation of the agreement.

37. At the time of this consumer transaction, Defendant Topeka Roofing was not registered as a roofing contractor with the Office of the Kansas Attorney General.

38. No refund has been made to Consumer M.B.

Consumer T.J.

39. All foregoing paragraphs are hereby incorporated by reference.

40. On or about February 10, 2020, consumer T.J., Lecompton, Kansas, Douglas County, entered into a consumer transaction for Defendant Topeka Roofing for roofing related and/or gutter services.

41. Defendant quoted the consumer an initial estimate of \$1,929.00 for repair of a roof leak. Defendant subsequently reduced the price to \$1,729.00. Defendant performed the work in its entirety in less than an hour by caulking heat stacks on the roof with a silicon material. Consumer T.J. wrote the Defendant a check for \$729.00 and agreed to make the additional payment by credit card. At that time, Defendant told consumer she owed an additional \$1,158.00. Defendant was charging sales tax in the amount of \$160.00 on the transaction. When consumer questioned Defendant on this, he offered to absorb that cost himself. Consumer T.J. expressed concern about the high charge and Defendant explained the silicon used was expensive. Defendants showed her that he had use “Dap” silicon on her roof.

42. The consumer had another roofing contractor review the work done by the Defendant who instructed the consumer that the roof was not fixed properly as the Defendant merely applied a gutter silicon. This contractor also explained that the product used was relatively inexpensive.

43. After the Defendant left, consumer felt she had been taken advantage of and stopped payment on the check. The credit card payment was never made. Subsequently, the consumer received a collection letter from an attorney representing Defendant demanding payment which added sales tax back to the transaction for a total amount due of \$1,889.00 which included the \$1,729.00 initially charged and sales tax in the amount of \$160.00.

44. T. J. is a protected consumer as they are an immediate family member of a member of the military.

Osage County

Consumer J.C.

45. All foregoing paragraphs are hereby incorporated by reference.

46. On or about August 10, 2013, consumer J.C., Overbrook, Osage County, Kansas, entered into a consumer transaction with Defendant Wilkinson (doing business as C & C Roofing) to inspect a roof leak.

47. Defendant Wilkinson inspected the roof and recommended needed repairs. Consumer J.C. agreed to allow Defendant to make the repairs and paid him \$1,485.00.

48. Consumer J.C. contacted a second roofing contractor to review who instructed the consumer that it appeared all Defendant did was replace two shingles on the roof. The second contractor estimated the work performed at \$200.00.

49. At time of this transaction, Defendant Wilkinson did not hold a valid roofing registration certificate issued by the Office of the Kansas Attorney General.

50. No refund was made to Consumer J.C.

Consumer M.V.

51. All foregoing paragraphs are hereby incorporated by reference.

52. On or about March 7, 2014, consumer M.V., Burlingame, Osage County, Kansas, entered into an agreement with Defendant Wilkinson (doing business as C & C Roofing) to repair some roof leaks.

53. Defendant repaired roof leaks for consumer M.V. for \$320.00 initially. The leaks continued and Defendant claimed to have fixed the leaks a second time charging Consumer M.V. an additional \$663.32. With this repair, Defendant guaranteed the work performed. The leaks were not properly fixed and Defendant came out a third time and informed Consumer M.V. that

it would be an additional \$750.00 to fix these leaks, at which time the consumer did not use the Defendant's services.

54. An additional contractor was hired by Consumer M.V. to fix some leaks and was paid a total of \$600.00. The work performed by this contractor successfully stopped the leaks.

55. At time of this transaction, Defendant Wilkinson did not hold a valid roofing registration certificate issued by the Office of the Kansas Attorney General.

56. No refund was made to Consumer M.V.

Consumer D.A.

57. All foregoing paragraphs are hereby incorporated by reference.

58. On or about April 12, 2014, Consumer D.A., Vassar, Osage County, Kansas, entered into an agreement with Defendant Wilkinson (doing business as Capitol City Roofing) to perform roofing services.

59. On or about April 12, 2014, Consumer D.A. requested Defendant give an estimate for a new roof for a home. Defendant stated he could replace the roof immediately for \$1,600 to \$1,800. Defendant assured Consumer D.A. the home would pass inspection. Consumer D.A. verbally agreed and Defendant started the work. Defendant used bottles of silicon caulk belonging to the consumer on the roof. Consumer D.A. spoke to her realtor who instructed Consumer D.A. to stop Defendant as this was not a roof replacement, which the consumer did. Defendant prepared the consumer an estimate for a roof replacement, which is what the consumer believed he had done already. Defendant claimed to have completed a repair and advised the price was \$2,755. Defendant stated the increase was for additional materials needed although Defendant used only the consumer's materials. Consumer D.A. paid the Defendant

\$1,000.00 and wrote him a second check for \$1,755.00 which she asked him not to cash until the following week. After Defendant left the house, Consumer D.A. stopped payment on the second check after concerns regarding the work and the cost. Defendant began contacting Consumer D.A. repeatedly attempting to collect the additional money and told the consumer he would file a lien on the property.

60. On April 17, 2014, Defendant filed a mechanic's lien against Consumer D.A.'s property for \$1,755.00 for materials and labor provided as a roofing contractor in Osage County District Court. Included with this lien was a document entitled "General Provisions" which stated that the contractor was licensed to perform the work. On May 8, 2014, Defendant filed to dismiss the mechanic's lien. On May 12, 2014, District Court Judge Phillip Fromme, Osage County District Court, dismissed the mechanic's lien filed based on Defendant's request and because Defendant was not registered as a roofing contractor with the Office of the Kansas Attorney General.

61. At time of this transaction, Defendant Wilkinson did not hold a valid roofing registration certificate issued by the Office of the Kansas Attorney General.

Consumer L.P.

62. All foregoing paragraphs are hereby incorporated by reference.

63. In May of 2020, consumer L.P., Overbrook, Osage County, Kansas, entered into an agreement with Defendant Topeka Roofing to repair roof damage.

64. Defendant quoted consumer L.P. \$435.00 to fix the damage to the roof. The Defendant spent approximately fifteen minutes on the roof making repairs and returned with an

invoice of \$2,255.00. This amount included sales tax of \$180.00. Defendant later offered a discount and accepted a total of \$2,055.00 for the work.

65. A second roofing contractor evaluated the roofing repair and stated the work performed was minimal as all the Defendant appeared to have done was apply caulk to vents and pipes on roof.

66. Consumer L.P. is a protected consumer as she is over the age of sixty (60) years and a veteran or a surviving spouse of a veteran.

67. No refund was made to Consumer L.P.

Shawnee County

Consumer M.H.

68. All foregoing paragraphs are hereby incorporated by reference.

69. On or about November 18, 2013, Consumer M.H., Topeka, Shawnee County, Kansas, entered into an agreement with Defendant Wilkinson (doing business as Capitol City Roofing) for roofing related services. The initial proposal stated the work would cost \$3,321.42 including \$1,750.00 down payment leaving a balance of \$1,571.42.

70. On or about November 19, 2013, Defendant arrived at the residence around 10:30 a.m. to begin performing work. Consumer M.H. did not see any additional workers and Defendant had instructed them previously that he worked alone. Consumer M.H. left and returned at approximately 12:45 p.m. Shortly thereafter, Defendant claimed he completed the work and instructed Consumer M.H. they owed \$1,438.97 more than quoted. Defendant's bill included four roofers for seven hours of work and \$1,330 for worker's compensation insurance. The work done was substandard. The total paid was \$4,760.39.

71. At the time of the consumer transaction, Defendant Wilkinson was not registered as a roofing contractor with the Office of the Kansas Attorney General.

72. M.H. is a protected consumer as they are over the age of sixty (60).

73. No refund was made to Consumer M.H.

Consumer J.D.

74. All foregoing paragraphs are hereby incorporated by reference.

75. Between the dates of May 18, 2015 and June 2, 2015, consumer J.D., Topeka, Shawnee County, Kansas, entered into a consumer transaction with Defendant Wilkinson (doing business as Capitol City Construction and Capitol City Roofing) for roofing related services. Consumer J.D. located Defendant Wilkinson in a newspaper advertisement which stated that Defendant Wilkinson was registered with the Attorney General.

76. On or about May 18, 2015, consumer J.D. contacted Defendant to provide an estimate regarding a roof leak. Defendant inspected the roof and recommended the application of sealant to the window area on the roof. The estimate for the sealant application was \$235.00. Some additional repairs were suggested by Defendant, which included sealant application to pipes and vents. Consumer J.D. agreed and the work was performed within approximately one and one-half hour timeframe. Defendant's invoice was for \$1,688.00. This was labeled as a "Proposal" but the consumer was asked to sign an acceptance of this after the work was performed. Shortly thereafter, the same area continued to leak. Defendant recommended additional repairs, including some shingle removal, at a cost \$1,322.89. After further negotiations, Consumer J.D. understood Defendant would perform the repairs for \$750.00 with a down payment of \$724.00. On or about June 2, 2015, Defendant began this work then stopped,

leaving the home exposed, and demanded an additional \$621.00 for the completion of this work, refusing to finish until paid. Consumer felt they had no choice but to pay. A warranty was provided to consumer. The total amount paid to Defendant was \$3,178.00. This leak continued and was never successfully repaired.

77. Additional roofing contractors reviewed Defendant's work stating that it was done poorly, some of the work was unnecessary and they were overcharged. The additional contractors also stated that some work performed may have made the situation worse.

78. At the time of the consumer transaction, Defendant Wilkinson was not registered as a roofing contractor with the Office of the Kansas Attorney General.

79. No refund was made to Consumer J.D.

Consumer J.S.

80. All foregoing paragraphs are hereby incorporated by reference.

81. On or about January 4, 2020, the Defendant Topeka Roofing inspected the roof for consumer J.S., Topeka, Shawnee County, Kansas. Defendant Topeka Roofing provided a verbal estimate for the roof repair at around \$700.00.

82. On or about January 8, 2020, the Defendant went to consumer J.S.'s home to perform the roof repairs. After about fifteen minutes, the previous estimate increased to \$1,435.00 plus sales tax of \$126.00 for a total of \$1,561.00. Defendant claimed to have already done most of the work by the time Consumer J.S. questioned him regarding the price increase. Defendant stated they fixed three vent pipes on the roof, yet according to Consumer J.S., there are only two vent pipes on the roof. Defendant would not return calls of Consumer J.S.

83. The consumer subsequently contacted a second roofing contractor to evaluate the roof damage and repair needed. The second contractor estimated the repairs done at no more than \$430.00.

84. No refund was made to Consumer J.S.

Consumer M.M.

85. All foregoing paragraphs are hereby incorporated by reference.

86. On or about June 25, 2019, consumer M.M., Topeka, Shawnee County, Kansas, entered into a consumer transaction with Defendant Topeka Roofing for a gutter cleaning service.

87. On or about June 25, 2019, the Defendant came to consumer M.M.'s home to after giving an estimate on gutter cleaning and inspect a leak. The estimate given ranged between \$200.00 and \$300.00. Once the Defendant completed the work, an invoice for \$1095.45 was given to Consumer M.M. after Defendant had been on the roof working approximately one hour. Consumer M.M. tried to contact Defendant after having more issues but was unsuccessful.

88. The consumer transaction was a "door-to-door" transaction in that the Defendant personally solicited the sale, in response to the consumer's invitation and consumer entered into an agreement for the sale of property and services in excess of \$25 and the transaction was subsequently entered into at a location other than the Defendant's place of business.

89. The estimate/agreement between the parties failed to contain any of the required language regarding the consumer's rights to cancel the contract or agreement within three days

of the transaction or any form labeled "Notice of Cancellation" as required. Consumer was also not verbally advised of their rights of cancellation of the agreement.

90. At the time of the consumer transaction, Defendant Topeka Roofing was not registered as a roofing contractor with the Office of the Kansas Attorney General.

91. No refund was made to Consumer M.M.

Jackson County

Consumer C.B.

92. All foregoing paragraphs are hereby incorporated by reference.

93. On or about December 11, 2020, consumer C.B., entered into a consumer transaction with Defendant Topeka Roofing for a residential roof repair.

94. Defendant gave Consumer C.B. an estimate of \$1,400.00 for caulking the vents and adding a connection elbow to the downspout. Defendant told consumer additional repairs were needed and consumer C.B. agreed to those repairs. Defendant claimed to have finished the repairs and then proceeded to charge the consumer for \$4,090.00 including \$330.00 in sales tax, which was paid. Subsequently, the consumer realized that the repairs had not been made as the leaks continued and it appeared the downspout connection was not added. Defendant failed to return the consumer's calls. Defendant billed Consumer C.B. for caulking of nine (9) vents. According to Consumer C.B., there were only four (4) vents on the roof.

95. Consumer C.B. is a protected consumer as they are over the age of sixty (60) as well as partially disabled.

96. No refund was made to Consumer C.B.

Jefferson County

Consumer G.L.

97. All foregoing paragraphs are hereby incorporated by reference.

98. On or about March 8, 2014, consumer G.L., Meriden, Jefferson County, Kansas, contacted the Defendant Wilkinson (doing business as Capital City Roofing) for an estimate in regards to leaks near their home's skylights. Defendant inspected the leaks and fixed them without any agreement with Consumer G.L., however left a bill for the work done with his business card. Subsequently, Defendant contacted the consumer a number of times demanding payment.

99. At the time the Defendant Wilkinson performed roofing related services, Defendant was not registered with the Office of the Kansas Attorney General.

100. Consumer G.L. is a protected consumer as they are an immediate family member of a member of the military.

CLAIMS

COUNT I

KANSAS CONSUMER PROTECTION ACT
DECEPTIVE ACTS OR PRACTICES

101. All foregoing paragraphs are hereby incorporated by reference.

102. In the course of making, or causing to be made, at least two (2) consumer transactions for guttering and roofing-related services to Kansas consumers, Defendant Wilkinson misrepresented a status that he did not possess as he claimed to be "licensed" or "registered with Attorney General" which was a misrepresentation.

103. Defendant's misrepresentations in regards to licensing and registration constitute deceptive acts or practices in violation of K.S.A. 50-626(b)(1)(B), for which the Court should assess a penalty in the amount of \$10,000 per violation, in the aggregate amount of \$20,000.

104. Defendant Wilkinson should be held liable for the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

COUNT II
KANSAS CONSUMER PROTECTION ACT
DECEPTIVE ACTS OR PRACTICES

105. All foregoing paragraphs are hereby incorporated by reference.

106. In the course of making, or causing to be made, at least two (2) door-to-door sales of guttering and roofing-related services to Kansas consumers, Defendants failed to furnish the consumer with a copy of the completed receipt or contract which contained the consumer's notice of right to cancel the agreement within three business days.

107. Defendants' failures to furnish consumers with such notice of the consumers' rights to cancel the transaction at the time of the door-to-door sales transaction constitute deceptive acts or practices in violation of K.S.A. 50-626 and K.S.A. 50-640(b)(1), for which the Court should assess a penalty in the amount of \$10,000 per violation, in the aggregate amount of \$20,000.

108. Defendant Wilkinson and Defendant Topeka Roofing should be held jointly and severally liable for \$20,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

COUNT III
KANSAS CONSUMER PROTECTION ACT
DECEPTIVE ACTS OR PRACTICES

109. All foregoing paragraphs are hereby incorporated by reference.

110. In the course of making, or causing to be made, at least two (2) door-to-door sales of guttering and roofing-related services to Kansas consumers, Defendants failed to provide the consumer with a completed form in duplicate notice of the three day right entitled “NOTICE OF CANCELLATION.”

111. Defendants’ failure to furnish the consumer with a “NOTICE OF CANCELLATION” form in duplicate advising them of their three day right to cancel constitute deceptive acts or practices, in violation of K.S.A. 50-626 and K.S.A. 50-640(b)(2), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$20,000.00.

112. Defendant Wilkinson and Defendant Topeka Roofing should be held jointly and severally liable for \$20,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

COUNT IV
KANSAS CONSUMER PROTECTION ACT
DECEPTIVE ACTS OR PRACTICES

113. All foregoing paragraphs are hereby incorporated by reference.

114. In the course of making, or causing to be made, at least two (2) door-to-door sales of guttering and roofing-related services to Kansas consumers, Defendants failed to orally provide the consumer with a notice of the three day right to cancel the contract or agreement.

115. Defendants’ failure to furnish orally the consumers their three day right to cancel the contract or agreement constitutes deceptive acts and practices, in violation of K.S.A. 50-626

and K.S.A. 50-640(b)(5), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$20,000.00.

116. Defendant Wilkinson and Defendant Topeka Roofing should be held jointly and severally liable for \$20,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

COUNT V
KANSAS CONSUMER PROTECTION ACT
DECEPTIVE ACT OR PRACTICES

117. All of the foregoing paragraphs are hereby incorporated by reference.

118. In the course of making, or causing to be made, at least two (2) consumer transactions for guttering and roofing-related services to Kansas consumers, Defendants willful use of a falsehood in regards to a material fact, including but not limited to the cost of a material being used and amount of time and/or workers involved in performing of roofing services.

119. Defendants' willful falsehoods are deceptive acts or practices in violation of K.S.A. 50-626(b)(2), for which the Court should assess a penalty in the amount of \$20,000.00 per violation, in the aggregate amount of \$20,000.00.

120. The Defendant's deceptive act or practice was committed against two (2) protected consumers as defined in K.S.A. 50-676. As such, the Court should assess an enhanced civil penalty pursuant to K.S.A. 50-677, in the amount of \$20,000.00, in addition to any civil penalty otherwise provided by law.

121. Defendant Wilkinson and Defendant Topeka Roofing should be held jointly and severally liable for \$40,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

COUNT VI
KANSAS CONSUMER PROTECTION ACT
DECEPTIVE ACT OR PRACTICES

122. All of the foregoing paragraphs are hereby incorporated by reference.

123. In the course of making, or causing to be made, at least four (4) consumer transactions for guttering and roofing-related services to Kansas consumers, Defendants knowingly made false statements regarding services or repairs that were needed on consumer's property.

124. Defendants' knowingly false statements are deceptive acts or practices in violation of K.S.A. 50-626(b)(9), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$40,000.00.

125. Defendant Wilkinson and Defendant Topeka Roofing should be held jointly and severally liable for \$40,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

COUNT VII
KANSAS CONSUMER PROTECTION ACT
UNCONSCIONABLE ACTS OR PRACTICES

126. All of the foregoing paragraphs are hereby incorporated by reference.

127. In the course of making, or causing to be made, at least four (4) consumer transactions for guttering and roofing-related services to Kansas consumers, the price charged by the Defendants grossly exceeded the price for similar services obtainable elsewhere.

128. Defendants' excessive overcharging of consumers are unconscionable acts or practices in violation of K.S.A. 50-627(b)(2), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$40,000.00.

129. The Defendant's unconscionable acts or practices were committed against at least one (1) protected consumer as defined in K.S.A. 50-676. As such, the Court should assess an enhanced civil penalty pursuant to K.S.A. 50-677, in the amount of \$10,000.00, in addition to any civil penalty otherwise provided by law.

130. Defendant Wilkinson and Defendant Topeka Roofing should be held jointly and severally liable for \$50,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

COUNT VIII
UNCONSCIONABLE ACTS OR PRACTICES

131. All of the foregoing paragraphs are hereby incorporated by reference.

132. In the course of making, or causing to be made, at least eleven (11) consumer transactions for guttering and roofing-related services to Kansas consumers, Defendants entered into consumer transactions from which the consumer was unable to receive a material benefit.

133. The consumers were unable to receive a material benefit from the transactions with Defendants which are unconscionable acts or practices in violation of K.S.A. 50-627(b)(3), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$110,000.00.

134. The Defendant's unconscionable acts or practices were committed against four (4) protected consumers as defined in K.S.A. 50-676. As such, the Court should assess an enhanced civil penalty pursuant to K.S.A. 50-677, in the amount of \$40,000.00, in addition to any civil penalty otherwise provided by law.

135. Defendant Wilkinson and Defendant Topeka should be held jointly and severally liable for \$150,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

COUNT IX
KANSAS CONSUMER PROTECTION ACT
UNCONSCIONABLE ACTS OR PRACTICES

136. All of the foregoing paragraphs are hereby incorporated by reference.

137. In the course of making, or causing to be made, at least eleven (11) consumer transactions for guttering and roofing-related services to Kansas consumers, Defendants induced the consumer to enter into an excessively one-sided consumer transaction in favor of the supplier.

138. Defendants induced the consumers to enter into an excessively one-sided consumer transactions in favor of the supplier, which are unconscionable acts or practices in violation of K.S.A. 50-627(b)(5), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$110,000.00.

139. The Defendants' unconscionable acts or practices were committed against four (4) protected consumers as defined in K.S.A. 50-676. As such, the Court should assess an enhanced civil penalty pursuant to K.S.A. 50-677, in the amount of \$40,000.00, in addition to any civil penalty otherwise provided by law.

140. Defendant Wilkinson and Defendant Topeka should be held jointly and severally liable for \$150,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

COUNT X
KANSAS CONSUMER PROTECTION ACT

UNCONSCIONABLE ACTS OR PRACTICES

141. All of the foregoing paragraphs are hereby incorporated by reference.

142. In the course of making, or causing to be made, at least three (3) consumer transactions for guttering and roofing-related services to Kansas consumers, Defendants made a misleading statement of opinion on which consumer was likely to rely, to their own detriment, specifically, that unnecessary or improper repairs were needed.

143. Defendants' misleading statements of opinion are unconscionable acts and practices in violation of K.S.A. 50-627(b)(6), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$30,000.00.

144. Defendant Wilkinson and Defendant Topeka should be held jointly and severally liable for \$30,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

COUNT XI **KANSAS ROOFING REGISTRATION ACT**

145. All of the foregoing paragraphs are hereby incorporated by reference.

146. At all times relevant hereto, the Defendant Wilkinson and Defendant Topeka Roofing acted as a roofing contractors in the state of Kansas at a time in which the Defendants were not properly registered to do so with the Office of the Kansas Attorney General.

147. Defendants' actions as a roofing contractor without holding a valid registration are unconscionable acts or practices in violation of K.S.A. 50-6,123(a)(1), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$80,000.00.

148. Defendant Wilkinson and Defendant Topeka should be held jointly and severally liable for \$80,000.00 in civil penalties of the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

COUNT XII
KANSAS ROOFING REGISTRATION ACT

149. All of the foregoing paragraphs are hereby incorporated by reference.

150. At all times relevant hereto, Defendant Wilkinson filed a mechanic's lien in Osage County District Court in relation to Defendant's business as a roofing contractor and at which time Defendant did not hold a valid registration certificate as required by this act.

151. This violation is an unconscionable act or practice in violation of K.S.A. 50-6,123(a)(2), for which the Court should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$10,000.00.

152. Defendant Wilkinson should be held liable for the aforementioned violation of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

COUNT XIII
KANSAS ROOFING REGISTRATION ACT

153. All of the foregoing paragraphs are hereby incorporated by reference.

154. In the course of making, or causing to be made, at least two (2) consumer transactions for guttering and roofing-related services to Kansas consumers, Defendant made a false statement in the solicitation of a contract, by claiming to be "licensed" or registered with the Office of the Kansas Attorney General at a time in which they were not.

155. The Defendant's false statements regarding licensing or registration status are unconscionable acts or practices in violation of K.S.A. 50-6,133(a)(4), for which the Court

should assess a penalty in the amount of \$10,000.00 per violation, in the aggregate amount of \$20,000.00.

156. Defendant Wilkinson should be held liable for the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

A. The above-listed acts and practices be declared deceptive and unconscionable, in violation of the KCPA, as provided by K.S.A. 50-632(a)(1);

B. All Defendants be permanently enjoined from these and other practices in violation of the KCPA, as provided by K.S.A. 50-632(a)(2);

C. All Defendants be permanently enjoined from conducting all door-to-door sales or consumer transactions in the state of Kansas.

D. Defendant Kevin E. Wilkinson is hereby provided notice that failure to answer this petition involving door-to-door consumer transactions under the Kansas Consumer Protection Act, 50-623 *et seq.*, could result in Defendant being prohibited from making and conducting door-to-door sales should a judgment be issued. Violation of a judgment or temporary or permanent restraining order issued pursuant to the Kansas Consumer Protection Act could constitute a crime and subject Defendant to prosecution pursuant to K.S.A. 21-6423, a Level 9, Person Felony;

E. Defendants pay civil penalties including, but not limited to \$10,000 per violation, as authorized by K.S.A. 50-636.

F. Defendants pay an enhanced civil penalties of \$10,000.00 for each violation of the

Kansas Consumer Protection Act, or such other amount as the Court deems just and equitable, committed against a protected consumer, in addition to the civil penalty requested in paragraph E, pursuant to K.S.A. 50-677.

G. Defendant Wilkinson and Defendant Topeka Roofing pay restitution, jointly and severally, totaling Twenty-two Thousand Ten Dollars and Sixteen Cents (\$22,010.16) to the Office of the Attorney General for the following consumers:

- a. J.C.: \$1,485.00;
- b. M.V.: \$983.32;
- c. D.A.: \$1,000.00;
- d. M.H.: \$4,760.39;
- e. J.D.: \$3,178.00;
- f. M.B.: \$1,802.00;
- g. L.P.: \$2,055.00;
- h. J.S. : \$1,561.00;
- i. M.M.: \$1095.45; and
- j. C.B.: \$4,090.00.

H. Defendant Wilkinson and Defendant Topeka Roofing cease any and all attempts to collect any money from Consumer T.J., consumer M.B., consumer D.A. and consumer G.L. for the consumer transactions/work performed, specifically including, but not limited to, filing mechanics' liens.

I. Defendants pay reasonable expenses and investigation fees pursuant to K.S.A. 50-632(a)(4).

- J. Defendants pay the costs of the action.
- K. Such other relief as the Court may deem just and appropriate.

Respectfully submitted,

/s/ Kimberley Davenport Megrail
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury for all issues raised by this pleading which are so triable.

/s/ Kimberley Davenport Megrail
Kimberley Davenport Megrail. #28078

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of May, 2021, I electronically filed the foregoing document with the Clerk of the Shawnee County District Court using the Court's Electronic Filing System, which will deliver a notice of the filing through electronic mail to the attorney of record, and served a paper copy via e-mail to the following:

James Heathman
Heathman Law Office, P.A.
3706 SW Topeka Blvd., Ste. 402
Topeka, KS 66609
Attorney for Defendant

/s/ Kimberley Davenport Megrail
Kimberley Davenport Megrail
Attorney for Plaintiff